

Michigan Indigent Defense Commission Meeting Minutes

The meeting was held electronically via Zoom.

The notice included information for members of the public on how to participate.

August 18, 2020

Time: 9:00 am

Commission Members Participating

Michael Puerner, Chair, Joshua Blanchard (joined at 9:14 am), Tracy Brame, Kimberly Buddin, Judge Jeffrey Collins, Nathaniel Crampton, Andrew DeLeeuw, Judge James Fisher, Christine Green, Joseph Haveman (joined at 9:14 am), David Jones, James Krizan, Cami Pendell (non-voting member), Judge Kristina Robinson Garrett (joined at 10:25 am), John Shea, William Swor, Gary Walker

Commission Members Absent:

Margaret McAvoy and Tom McMillin

Staff Members Participating

Loren Khogali, Barbara Klimaszewski, Marla McCowan, Kelly McDoniel, Rebecca Mack, Deborah Mitchell, Susan Prentice-Sao, Christopher Sadler, Jonah Siegel, Nicole Smithson, Kristen Staley, Melissa Wangler and Marcela Westrate

Chair Puerner called the Michigan Indigent Defense Commission (“MIDC” or “the Commission”) meeting to order at 9:05 am.

Introduction of Commission members and guests

Chair Puerner welcomed attendees to the meeting.

Public Comment

Melanie Young offered commends on behalf of Monroe County.

Kareem Johnson offered comments on behalf of Jackson County.

Approval of the Agenda

There were no additions to the agenda. Judge Fisher moved that the agenda be adopted as presented, Commissioner Swor seconded. The motion carried.

Consent Agenda

Judge Collins moved that the consent agenda containing the minutes from the Commission’s June meeting be approved, Commissioner Walker seconded. The motion carried.

Chair Report

Chair Puerner thanked MIDC staff members for their hard work in the face of the challenges that have been presented over the last several months. He provided an overview of the materials distributed electronically to Commissioners. He recognized Commissioner Brame and Judge Fisher for awards that they are receiving. Commissioner Brame was recently named Lawyers Weekly

Lawyer of the Year. Judge Fisher is receiving the State Bar of Michigan's Champion of Justice Award.

Executive Director Report

Ms. Khogali provided an overview of her written report given to members prior to the meeting.

The Commission's indigency screening standard has been published and the MIDC is accepting public comments through September 14. A public hearing will be scheduled in mid-September on the proposed standard.

Commission Business

FY21 Legislative/Appropriations Update

Ms. Westrate provided an update about the status of the Commission's FY21 appropriations. She will update the Commission as the process continues.

Byrne JAG Grant

Ms. Khogali and Ms. McCowan provided an overview of the proposed Byrne JAG grant application for FY21. The Commission has received the grant for FY19 and FY20.

Commissioner Shea moved that the Commission authorize staff to apply for up to \$250,000 in Byrne JAG grant funding to support skills training for indigent defense attorneys in Michigan. Commissioner Buddin seconded. The motion carried. Commissioner Blanchard abstained from the vote because of a potential conflict of interest.

FY21 Proposed Budget

Ms. Khogali provided a draft FY21 budget for the Commission's review. The Commission's Internal Operating Procedures require it to approve a budget no later than August for the fiscal year starting the following October 1. Since the FY21 budget has not been finalized, it is unclear what the amount will be. Ms. Khogali's draft is based on the Executive Recommendation presented by Governor Whitmer earlier this year.

Commissioner Shea moved to approve the FY21 proposed budget. Judge Collins seconded. The motion carried.

FY21 Compliance Planning Process

Judge Collins provided an overview of the Compliance Planning Committee's activities. The committee reviewed a document drafted by MIDC staff to guide the Commission in making decisions regarding the to be determined FY21 budget for compliance grants and recommends that the Commission adopt the document.

Judge Fisher moved that the Commission adopt the document presented by the committee to guide the Commission in making decisions in the case that there is a shortfall in the FY21 appropriation for compliance grants. Commissioner Krizan seconded the motion. The motion carried.

The Commission returned to public comment.

Lillian Diallo provided comment on behalf of the Wayne County Criminal Defense Bar Association.

Compliance Plan Assessment Tool

Dr. Siegel provided an updated assessment tool for the Commission's review and to assist in its evaluation of compliance plans. The tool is another way to compare compliance plans and costs between systems. Commissioners discussed the numbers, how they were calculated and provided comments.

The Commission returned to public comment.

Sam Churikian provided comments as a member of Wayne County's private defense bar.

FY20 Compliance Updates

Plan Changes

Ms. McCowan provided an overview of the changes requested by Crawford County. The county would like to have the court administrator take over the MIDC administrative responsibilities for the grant; these duties were previously handled by the magistrate. This change will not result in a substantive change to the approved cost analysis. MIDC staff recommends approval of the change.

Commissioner Swor moved that the staff recommendation be adopted and that Crawford County's plan change be approved. Judge Fisher seconded. The motion carried.

Ms. Mack approved the following budget adjustment requests; these did not impact the total system costs and do not require Commission approval:

- 36th District Court – City of Detroit
- 37th District Court – Warren/Centerline
- Lenawee County
- Jackson County
- Saginaw County

Ms. Mack partially approved Wayne County's budget request. The training and travel portion requires correction of documentation but is otherwise granted, the Sheriff Department benefits reimbursement is denied and the jail/deputy expenses were denied.

The Commission recessed for 15 minutes.

Upon resuming the meeting, Chair Puerner requested a second roll call vote to confirm that a quorum was still present. Ms. Westrate called the roll, a quorum was present.

Ms. McCowan provided a summary of the review done by MIDCs committees. All committees met on August 11 via Zoom.

The System Change Committee chaired by Gary Walker reviewed the following plans (listed by MIDC regions):

Western Michigan

- Calhoun County
- 61st District Court
- 62A District Court
- Muskegon

- Ottawa

Northern Michigan

- Iron
- Menominee
- Presque Isle

Mid-Michigan

- Alpena/Montmorency
- Saginaw

Lapeer, Macomb, Oakland, St. Clair

- 41A-2 District Court – Shelby Twp.
- 41B District Court - Clinton Township

South Central Michigan

- Eaton County
- Genesee County
- Washtenaw County

The Increase to Direct Costs Committee, Commissioner Swor Chair, met and discussed the following plans (listed by MIDC region):

Western Michigan

- | | |
|-------------|---|
| • Branch | • Grandville, Kentwood, Walker, & Wyoming |
| • Calhoun | • Montcalm |
| • Cass | • Muskegon |
| • Ionia | • St Joseph |
| • Kalamazoo | |
| • Kent | |

Northern Michigan

- | | |
|----------------------------|-------------------------|
| • Baraga/Houghton/Keweenaw | • Grand Traverse County |
| • Crawford County | • Marquette |
| • Delta County | |

Wayne County

- | | |
|---|---|
| • 16 th District Court – Livonia | • 32A District Court – Harper Woods |
| • 17 th District Court – Redford | • 33 rd District Court – Woodhaven |
| • 21 st District Court – Garden City | • 34 th District Court – Romulus |
| • 23 rd District Court – Taylor | • Grosse Pointe Farms/Shores |
| • 29 th District Court – City of Wayne | • 3rd Circuit, Wayne County |

Mid-Michigan

- Huron County
- Iosco County
- Ogemaw County
- Osceola County
- Tuscola County

Lapeer, Macomb, Oakland and St. Clair

- 37th District Court - Warren
- 40th District Court - St. Clair Shores
- 41B District Court - Clinton Township
- 46th District Court – Southfield
- Lapeer County
- Macomb County
- Oakland County
- St. Clair County

South Central Michigan

- Clinton County
- Eaton County
- Genesee County
- Gratiot County
- Ingham County
- Jackson County
- Lenawee County
- Monroe County
- Washtenaw County

The General Increase to Plan Committee, chaired by Commissioner Green, considered the following plans (organized by MIDC region):

Western Michigan

- Calhoun County
- Ionia County
- Kalamazoo County
- Kent County
- Grandville, Kentwood, Walker, & Wyoming
- Montcalm County
- Muskegon County
- St Joseph County

Northern Michigan

- Cheboygan County
- Crawford County
- Wexford/Missaukee Counties

Mid-Michigan

- Oceana County

Wayne County

- 21st District Court – Garden City
- 23rd District Court – Taylor
- 25th District Court – Lincoln Park
- 36th District Court – Detroit
- Grosse Pointe Farms/Shores
- 3rd Circuit, Wayne County

Lapeer, Macomb, Oakland, St. Clair

- 40th District Court - St. Clair Shores
- 43-3 District Court - Madison Heights
- 46th District Court - Southfield
- Lapeer County
- Macomb County
- Oakland County
- St. Clair County

South Central MI

- Eaton County
- Genesee County
- Ingham County
- Jackson County
- Lenawee County
- Livingston County
- Monroe County
- Shiawassee County
- Washtenaw County

No submission to review

The following three systems did not submit final documents for the Commission and staff to review:

- 20th District Court – Dearborn Heights
- 30th District Court – Highland Park
- 43-1 District Court – Hazel Park

MIDC staff recommends that the failure to submit a plan and/or cost analysis be treated a rejection.

Commissioner Swor moved that the staff recommendation to treat the failure to submit a plan and/or cost analysis as a rejection of the plan and rejection of the cost analysis be adopted. Commissioner Walker seconded. The motion carried.

Rejection of submission

MIDC staff recommends that the plans and cost analyses for the following plans be rejected:

- 22nd District Court - Inkster
- 27th District Court - Wyandotte
- Grosse Pointe Woods
- 37th District Court – Warren/Centerline
- 38th District Court - Eastpointe
- 46th District Court – Southfield
- Allegan/Van Buren Counties
- Calhoun County
- 61st District Court – Grand Rapids
- 62a District Court – Wyoming (59-1, 59-2, 62b District Courts)
- Kent County (17th Circuit and 63rd District Courts)
- Muskegon County
- Midland County

Commissioner Krizan moved that the staff recommendation be adopted and that the Commission reject the plans and reject the cost analyses for the systems listed above. Judge Collins seconded. The motion carried.

Approve plan, reject cost analysis

MIDC staff recommends that the plans for the following systems be approved and the corresponding cost analyses be rejected:

- Alger County
- 43-3 District Court - Madison Heights
- 51st District Court - Waterford
- Lapeer County
- Ionia County
- Kalamazoo County
- 17th District Court - Redford
- 25th District Court – Lincoln Park
- 34th District Court - Romulus
- Wayne County (Circuit only)
- Alpena County
- Montmorency County
- Iosco County
- Jackson County
- Monroe County
- Washtenaw County (all)

The Commission returned to public comment. Drew Van de Grift offered public comment on behalf of Wayne County.

Commissioner Walker moved that the staff recommendation be adopted and that the plans for the systems listed above be approved and the cost analyses be rejected. Commissioner Green seconded the motion. The motion carried. Commissioner DeLeeuw abstained from the vote with respect to Washtenaw County because of his employment with that county.

Approve plan, approve cost analysis

Ms. McCowan provided an overview of the plans that are recommended to have both the plan and cost analysis approved.

The following plans have no change to the plan from the previous fiscal year and no increase in the cost analysis:

- 19th District Court - Dearborn
- 33rd District Court - Trenton
- 35th District Court - Plymouth
- 39th District Court - Roseville/Fraser
- 41-a-1 District Court - Sterling Heights
- 43-2 District Court - Ferndale
- 44th District Court - Royal Oak
- 45th District Court - Oak Park
- Mackinac County
- Berrien County
- Branch County
- Livingston County
- Shiawassee County
- Alcona County
- Arenac County
- Isabella County
- Oscoda County
- Sanilac County
- Clare/Gladwin Counties

- Lake County
- Mason County
- Newaygo County
- Oceana County

The Commission returned to public comment. Marianne Talon offered public comment on behalf of Wayne County.

The following systems did not request any change to their current plans and the only increase in the cost analyses were for cost of living adjustments:

- Bay County
- Dickinson County
- Charlevoix County
- Leelanau County
- Schoolcraft County

The following systems did not request any change to the current plans and had minor increases (less than 5%) to their cost analyses based on demonstrated need and/or standards implementation:

- Cass County
- Cheboygan County
- Wexford-Missaukee Counties
- 29th District Court – City of Wayne
- 40th District Court – St. Clair Shores
- Ogemaw County
- Tuscola County

The following systems requested changes to their compliance plans but no additional cost in their cost analyses:

- 41-a-2 District Court – Shelby Twp.
- 41-b District Court - Mt. Clemens
- Ottawa County
- Eaton County
- Saginaw County

Commissioner Swor moved that the Commission adopt the staff recommendation and approve the plan and approve the cost analysis for the 40 plans listed above. Commissioner Brame seconded. The motion carried.

Ms. McCowan provided an overview of the systems whose submissions included a change to the current plan and/or an increase to direct services greater than 5%. MIDC staff recommends approval of these plans:

- Montcalm County
- St. Joseph County
- Huron County
- Osceola County
- Baraga/Houghton/Keweenaw Counties
- Crawford County
- Delta County
- Grand Traverse County
- Iron County
- Marquette County
- Menominee County
- Presque Isle County
- Clinton County
- Gratiot County
- Genesee County
- Ingham County
- Lenawee County
- Macomb County (16th Circuit & 42 District Courts)

- St. Clair County
- Grosse Pointe Farms
- 16th District Court - Livonia
- 21st District Court - Garden City
- 23rd District Court - Taylor
- 32a District Court - Harper Woods
- 36th District Court - Detroit

The Commission recessed at 1:10 pm for 10 minutes. Commissions Crampton and Swor left the meeting during the recess. Upon resuming the meeting, Chair Puerner requested a roll call vote to confirm that a quorum was still present. Ms. Westrate called the roll, a quorum was present.

Commissioner Green moved that the staff recommendation be adopted and that the plans and cost analyses for the 25 systems listed above be approved. Judge Collins seconded. The motion carried. Judge Robinson Garrett abstained from the vote with respect to the plan for 36th District Court because she serves on that court's bench.

MIDC staff recommends conditional approval of the plan and cost analysis submitted by Oakland County. The approval would be subject to the resolution of the FY20 planning grant being executed and the corresponding amount (\$597,456.21) being removed from the FY21 cost analysis.

Commissioner Shea moved that the staff recommendation be adopted and that Oakland County's plan be conditionally approved. Judge Collins seconded the motion. The motion carried.

Planning costs

Ms. Khogali provided an overview of the planning costs requested by systems for FY 21 plans.

Commissioner Walker moved that the Commission approve planning costs submitted for fiscal year 2021 as request by funding units to date. Commissioner Krizan seconded the motion. The motion carried.

The next meeting is October 20, 2020.

Commissioner Shea moved that the meeting be adjourned. Commissioner Green seconded the motion. The motion carried. The meeting was adjourned at 1:40 pm.

Respectfully submitted,

Marcela Westrate